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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,196	09/11/2003	Mark L. Binette	D-5540-C1	9382

24492 7590 03/25/2004

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EXAMINER

GORDON, RAEANN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/662,196

**Applicant(s)**

BINETTE ET AL.

**Examiner**

Raeann Gorden

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-18 is/are allowed.
- 6) ☒ Claim(s) 19-26 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10-20-03</u> . | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Oath/Declaration***

The declaration is objected to under 37 CFR 1.63 as being an improper continuation application. The matter is claim 27 was not presented in the prior application. The declaration must be changed to reflect the additionally recited subject matter and state that this application is a continuation-in-part of Application No 09/760,215.

### ***Specification***

The specification is objected to under 37 CFR 1.63(d)(iii) and 37CFR 1.78. The applicant has improperly stated that this application is a continuation of prior Application No. 09/760,215. Because this application adds additional disclosure (claim 27), it must be changed to a continuation-in-part application instead of a continuation.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19, 20, 23, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asakura et al (5,730,664) in view of Yamagishi et al (5,779,563).

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Regarding claims 19 and 26, Asakura discloses a core, an inner cover layer and an outer cover layer with dimples. The inner cover layer has from 25 to 40 parts by weight of a high specific gravity filler (col 4, table). The outer cover is softer than inner cover layer and has a Shore D hardness from 63 to 73 (fig 1). Asakura discloses dimples but does not disclose the percentage of dimples. Yamagishi teaches a cover comprising at least 60% dimples. Regarding claim 20, the core is solid. Regarding claim 23, the inner cover layer is made from ionomers such as Hi-milan 1557 and 1605, which are zinc and sodium ionomers, respectively (see Kato '568 col 8). One skilled in the art would have included a specific quantity of dimples to achieve the desired flight characteristics.

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asakura in view of Moriyama et al (5,713,802). Asakura discloses the invention as shown above but does not disclose a wound or liquid core. Moriyama teaches a core assembly comprising a wound and/or a liquid layer (col 2). One skilled in the art would have modified the core to achieve the desired shot feel of the golf ball.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Asakura in view of Sullivan (4,884,814). Asakura does not disclose a blend of soft and hard ionomers for the outer cover layer. Sullivan teaches the use of hard and soft ionomers for cover layers. One skilled in the art would have modified the ionomer of the layer to achieve a more durable golf ball as taught by Sullivan.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Asakura in view of Egashira (5,714,546). Asakura does not teach the use a terpolymer in the outer cover layer. Egashira teaches terpolymer ionomers for cover layers. One skilled

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in the art would have modified the ionomer to achieve the desired spin properties as taught by Egashira

***Allowable Subject Matter***

Claims 1-18 are allowed.

Claims 27 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 703-308-8354. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raeann Gorden  
Examiner  
Art Unit 3711

RG  
March 20, 2004